

**DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF PSYCHOLOGY**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** May 6, 2006

**Subject Matter of Proposed Regulations:** Disciplinary Guidelines

**Section Affected:** 1397.12

**Specific Purpose of each adoption, amendment, or repeal:**

The board utilizes disciplinary guidelines when taking action to deny, suspend, revoke or place a license or registration on probation. Further, Administrative Law Judges, Deputy Attorneys General and respondents depend on these disciplinary guidelines regarding case disposition. The specific purpose of this proposal is to amend the board's disciplinary guidelines by the addition or modification of certain current terms and conditions that could be imposed against a psychologist, a psychological assistant or a registered psychologist who is in violation of the Psychology Licensing Law. It would replace the existing disciplinary guidelines entitled "Disciplinary Guidelines" with the version amended 2/4/06, which will be incorporated by reference.

**Factual Basis/Rationale**

The board's mandate is to protect the health, safety and welfare of California consumers. The board's highest priority is to protect consumers by employing its authority to investigate complaints and take disciplinary action against licensees, registrants and applicants for licensure or registration who endanger the health and safety of the consumer. Business and Professions Code section 2960 specifies the grounds for which the board may discipline a licensed psychologist, registered psychological assistant and registered psychologist. Most violations involve unprofessional conduct which includes but is not limited to:

- ✓ Gross Negligence – An extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensee or registrant, and which has or could have resulted in harm to the consumer.
- ✓ Sexual Misconduct – Any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a licensee or registrant.
- ✓ Conviction of a Crime – A crime substantially related to the qualifications, functions or duties of the licensee or registrant. Examples include convictions involving sexual misconduct, patient abuse, illegal possession or use of dangerous drugs, or driving under the influence of drugs or alcohol.

Not all violations of the Psychology Licensing Law are of such a nature or severity that they warrant denial or revocation of a license. In some cases, a lesser penalty such as probation is sufficient to ensure consumer protection.

Board enforcement staff and Deputy Attorneys General use the guidelines when developing settlement agreements with respondents. At times, after the filing of an Accusation, the respondent requests to settle the case before a hearing. Enforcement staff and attorneys will refer to the guidelines to determine the type of penalty that may be included in the settlement agreement.

The disciplinary guidelines are also intended to assist the Administrative Law Judge and board members in imposing the most appropriate penalty upon a licensee or registrant who has violated the laws or regulations governing his or her practice.

Therefore, the guidelines are used for both settlements and administrative hearings. They are not, however, binding standards. They can be modified during the settlement or at the hearing depending upon the circumstances of the specific case.

The Disciplinary Guidelines must be kept current in order for it to be a useful document in pending disciplinary matters.

The following is a brief summary of changes made to the guidelines:

The guidelines have been updated to change the name of the supplemental examination from the California Jurisprudence and Professional Ethics Examination (CJPEE) to the California Psychology Supplemental Examination (CPSE).

The guidelines have updated to eliminate the CPSE under section 2960(b) and would request a psychological evaluation and ongoing therapy (if appropriate).

The guidelines have been updated to eliminate reference to the Examination for Professional Practice in Psychology (EPPP) as the Association of State and Provincial Psychology Boards (ASPPB) does not permit the use of the EPPP for disciplinary purposes.

The guidelines have been updated to add that a respondent shall notify the board within 10 days if a monitor quits or is otherwise no longer available (if appropriate).

The guidelines have been updated to increase the number of weeks a respondent is required to seek therapy from 26 weeks to 52 weeks (if appropriate). The word “consecutive” was added to require, at minimum, one hour of psychotherapy per week for 52 consecutive weeks.

The guidelines have been updated to require a respondent to participate in or attend ongoing treatment the entire time while on probation (if appropriate).

The guidelines have been updated to reflect the correct code section. Section 4211 was repealed pursuant to AB 2802, Statutes of 1996, Chapter 890, therefore the correct section is 4022 and was adopted pursuant to same legislative mandate.

The guidelines have been updated to add a new standard term and condition to be included in all Proposed Decisions and Stipulations. This new section would add the term “surrender” which would allow a probationer to surrender his or her license to the board in a more formal manner. A formal acceptance of surrender of a license or registration allows the board to retain jurisdiction should the former probationer reapply for licensure or registration.

The guidelines have been updated to renumber sections #29 and #30 to #30 and #31.

### **Underlying Data**

Disciplinary Guidelines amended 2/4/06 (Attached)

### **Business Impact**

This regulation will not have a significant adverse economic impact on businesses since it does not require applicants to become certified as a board certified specialist with the ABPP. Rather the proposed amendment merely offers applicants for licensure as a psychologist in California another option to streamline the licensing process.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.